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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/538,643 | 12/28/2005 | Ichiro Takeda | 47233-0052 (217738) | 3704 |
| 55694 | 7590 | 08/06/2009 | EXAMINER | |
| DRINKER BIDDLE & REATH (DC) | | | NIESZ, JASON KAROL | |
| 1500 K STREET, N.W. | | | | |
| SUITE 1100 | | | ART UNIT | PAPER NUMBER |
| WASHINGTON, DC 20005-1209 | | | 3751 | |
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| | | | MAIL DATE | DELIVERY MODE |
| | | | 08/06/2009 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/538,643 | TAKEDA ET AL. | |
| | Examiner | Art Unit | |
| | JASON K. NIESZ | 3751 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 19 June 2009.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1,2,4-6,9,10,12-14 and 33-40 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) 4-6,12-14,34,36,38 and 40 is/are allowed.
 6) Claim(s) 1,9,33,35,37 and 39 is/are rejected.
 7) Claim(s) 2 and 10 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 10 June 2005 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/19/2009</u> . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 06/19/2009 was considered by the examiner.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 9, 33, 35, 37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Field (US Patent 5,502,978).

In Re claims 1 and 33 with reference to Figure 1 Field discloses a liquid filling method wherein a liquid is delivered from a storage tank (7) to a filler tank (14) of a filler (17). Field also discloses a return piping (18) which is used to circulate liquid through the filling line from the storage tank to the filler tank constantly (Column 3, lines 9-14). The examiner notes that the faucet (17) of Field is envisioned as a part of a refrigerator water dispense which would be used to fill glasses. The examiner further notes that Field discloses a system where fluid is constantly refluxing (Column 3, lines 9-14). This system inherently returns less water to the storage tank (7) when some water is diverted to a filler.

Field doesn't disclose a detecting unit on the filler tank. Field discloses controlling a pump based on fluid consumption (Column 3, lines 18-19) but does not disclose a

step for determining said consumption. Tank level sensors were old and well known in the art at the time of the invention. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Field apparatus by placing a fill sensor on the filler tank, in order to detect water consumption from the tank, and provide control for the pump.

Claims 9 and 35 are rendered obvious by Field as applied to claims 1 and 33 above.

In Re claims 37 and 39 Field as applied to claims 1 and 9 above discloses all the limitations but doesn't disclose "wherein liquid being refluxed to said storage tank egresses from the filler tank through and opening different from the liquid being filled into containers". It would have been obvious to one of ordinary skill in the art to modify the Field apparatus by having the reflux line and the dispensing line egress from the filler tank through different openings, because the substitution of one known method of egress for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

Allowable Subject Matter

4. Claims 4-6, 12-14, 34, 36, 38 and 40 are allowed.
5. Claims 2 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed 06/12/2009 have been fully considered but they are not persuasive.

In Response to the applicant's arguments regarding the fluid level sensor. Field does not specify that the storage reservoir (14) kept constantly full by the pressure in the system. The examiner notes that most inline filters result in a pressure drop in the systems where they are used. This could result in a situation where the full opening of valve 17 combined with the action of pump 21 drains the storage reservoir to undesirable levels. At this point a tank level sensor could signal to reduce the operation of the pump.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON K. NIESZ whose telephone number is (571)270-3920. The examiner can normally be reached on mon-fri 9-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jason K Niesz
Examiner
Art Unit 3751

/Gregory L. Huson/
Supervisory Patent Examiner, Art Unit 3751